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REMARKS

The Final Office Action dated January 14, 2004 and the references cited therein have been fully considered. Reconsideration of this application as amended is respectfully requested in light of the foregoing amendments and following remarks.

Claims 1-15 are pending in the application.

Claims 1, 6, 7 and 10 are amended herein.

Claim 8 has been cancelled.

Claims 4 and 14 have been previously presented.

Claims 1-7 and 9-15 are presented for consideration.

Applicants thank the Examiner and his supervisor for the consideration and assistance provided to Applicants' attorney during a telephone interview conducted on April 13, 2004. Applicants have fully considered the suggestions made therein in the claim amendments submitted with this response.

Claim Objections

The objection to claims 10-13 under 37 C.F.R. § 1.75 (c) as to being in improper dependent form is maintained. Applicants have amended claim 10 to address this objection. It should be noted that the instant invention features helper-dependent adenoviral vector elements and helper adenoviral elements that enhance the product and isolation of helper-dependent adenoviral vectors. As such, claim 10 has been amended to clarify that a helper virus comprises the nucleic acid of claim 6. Applicants request that this objection be withdrawn in view of the amendment made herein.

Claim Rejections Under 35 U.S.C. §112

The rejections with respect to claims 1-15 under 35 USC §112, second paragraph as being indefinite with respect to the phrase "low homology" and in claim 7 with respect to the phrase "2-3 times less efficient" are maintained. Applicants have amended claims 1 and 7 to

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further define and distinguish the claimed invention. Support for the claim amendment to claim 1 is provided within the Specification on page 11, beginning at line 13 through line 34. With respect to claim 7, the phrase "2-3 times less efficient" refers to testing of the modified virus in comparison with the non-modified virus within the same cell line. See definition of "less efficient" on page 4 of the Specification at lines 8-15.

In view of the above, it is respectfully requested that these rejections be withdrawn.

Claim Rejection Under 35 U.S.C. §102

The rejection of claims 1-5 and 7 under 35 U.S.C. §102(b) in view of Hardy et al. (WO 97/32481) is maintained. It has been asserted that said reference teaches the low homology packaging signal of the instant invention. Applicants respectfully traverse this rejection. Applicants have amended claim 1, and the claims depending therefrom, to further distinguish and define the invention. Hardy does not describe any packaging signal having the modified A elements of the claimed invention. The packaging signal of Hardy is limited to naturally occurring adenovirus packaging signals and other synthetic sequences that function as naturally occurring sequences. There is no teaching, either expressed or implicit, in Hardy that would anticipate the claimed invention.

The rejection of claims 6, 8 and 9-12 under 35 U.S.C. §102(b) in view of Hardy is also maintained. Applicants respectfully traverse this rejection. In that these claims depend from a claim containing a novel feature and that Hardy does not teach the novel feature, the claims are not anticipated. Hardy does not teach any construct having the modified packaging signal of claim 1 either alone or in combination with the additional features of dependent claims 6, 8 and 9-12 such that it would anticipate the claimed invention.

Thus, it is respectfully submitted that the cited reference does not anticipate the claimed invention. Applicants request that the Examiner reconsider and withdraw this rejection.

CONDITIONAL PETITION

Applicants hereby make a Conditional Petition for any relief available to correct any defect in connection with this filing, or any defect remaining in this application after this


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filing. The Commissioner is authorized to charge deposit account 13-2755 for the petition fee and any other fee(s) required to effect this Conditional Petition.

CONCLUSION

In view of the foregoing amendments and remarks, it is seen that all grounds of rejection have been overcome and that Claims 1-7 and 9-15 are in proper condition for allowance. Accordingly, Applicants respectfully request that all of the objections and rejections of record be withdrawn and that a Notice of Allowance be forwarded to the Applicants. The Examiner is invited to contact Applicants' Attorney at the telephone number given below, if such would expedite the allowance of this application.

Respectfully submitted,

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